

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WASHINGTON, D.C. 20460

OFFICE OF INSPECTOR GENERAL OFFICE OF INVESTIGATIONS

DATE: February 11, 2022 **PREPARED BY:** (b) (6), (b) (7)(C), (b) (7)(F)

CASE #: OI-HQ-2021-CCR-0075 CROSS REFERENCE #: COMP-2021-80

TITLE: $^{(b)}(6), (b)(7)(C)$ SES, (b)(6), (b)(7)(C) EPA $^{(b)}(6), (b)(7)(C)$

CASE CLOSING REPORT

 Subject
 Location
 Other Data

 (b) (6), (b) (7)(C)
 (b) (6), (b) (7)(C)
 Phone: (b) (6), (b) (7)(C)

 EPA (b) (6), (b) (7)(C)
 Email: (b) (6), (b) (7)(C)

VIOLATIONS:

- 1. 18 U.S. Code § 2071 Concealment, removal, or mutilation generally
- 2. EPA Chief Information Officer (CIO) Directive 2155.4 Interim Records Management Policy
- 3. EPA CIO Directive 2155.5 Records Management Policy
- 4. Capstone Records Management System

ALLEGATION:

(b) (6), (b) (7)(C) EPA, (b) (6), (b) (7)(C) wrongfully deleted two (2) EPA official emails at the direction and request of a (b) (6), (b) (7)(C) representative, as well as acted as a "spy" on behalf of the chemical company (b) (6), (b) (7)(C)

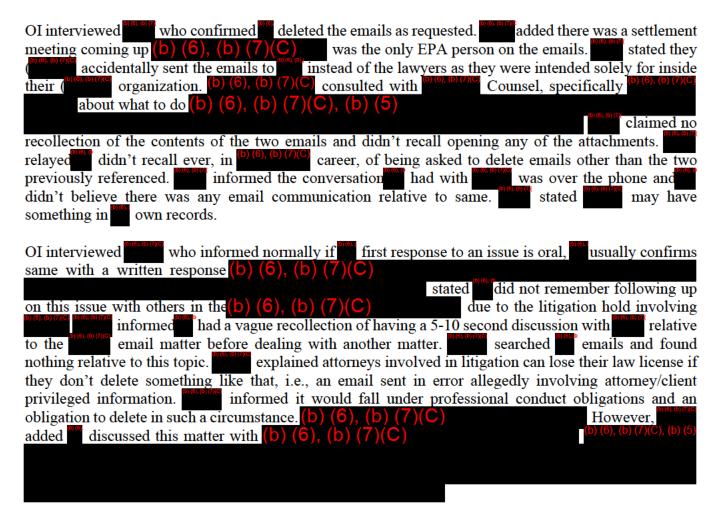
FINDINGS:

OI obtained and reviewed emails from official EPA email account. A review of the emails did not yield the emails that were allegedly deleted. OI interviewed personnel from EPA's Office of Mission Support (OMS), Office of Information Technology Operations (OITO) to gain a better understanding of EPA's email retention policies and procedures. Due to position in EPA, emails are/were subject to permanent retention. OI was informed when an individual leaves the Agency, they (user) remain in the applicable policy and are moved to an inactive state; however, the emails are still maintained in accordance with the applicable policy. With respect to the two emails deleted by it is possible those emails were maintained on the "back end". The emails would be stored in hidden (from the user) recoverable folders and could be retrieved in an eDiscovery search. However, this is dependent upon how the emails were deleted. If deleted those emails and selected "This will be permanently deleted", these items would not be retrievable.

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OI reviewed information provided by EPA's National Records Management Program (NRMP) and focused on a section entitled "Frequently Asked Questions About Email and Records". It was explained an email message is a record if it meets the definition of a federal record. An email record decision tree was included to assist employees in determining how to decide if an email is a record. Based on the information developed during the investigation and the utilization of the email record decision tree, the emails deleted by would not meet the definition of a federal record for retention purposes and would be designated as "Nonrecord".

(b) (6), (b) (7)(C)

DISPOSITION: Not Supported; Closed

As OI was unable to substantiate a crime had occurred, the matter was not presented for criminal or civil consideration. Based on interviews and record reviews, the allegation was deemed as not supported. No further action will be taken at this time. This investigation is closed in this office.

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